IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 289 OF 2006

Premsingh Rawat .. Petitioner.

vs.

The Orchid and Ecotel

Hotel. .. Respondents.

Mr. Anand Grover with Prakash Mahadik

for petitioner.

Mr. R.V. Paranjpe for respondent no.1.

CORAM : S.U. KAMDAR, J.

DATE : 6th March, 2006.

P.C.:

. The present writ petition is filed challenging the order dated 20.5.2005 by which condonation of delay application for 21 days has been rejected. It is the case of the petitioner that the petitioner was forcibly made to resign from his services on 2.2.2004 and he was paid off his dues on 29.5.2004. He has challenged the forcible resignation by filing a complaint under the provisions of the MRTU & PULP Act, 1971. The learned Member of the Industrial Court has dismissed

the said application on the ground that for entertaining the dispute on merits that Court will have no jurisdiction. He has proceeded and sought to decide the issue on merit in place of deciding the application and ascertaining whether sufficient cause is made out or not for condonation of delay. In the reasoning which was given by the learned Member of the Industrial Court there is no finding in respect of the justification or non-justification for grant of condonation of delay application. I am of the view that the petitioner's case that the petitioner was suffering from HIV positive and was sick and in the circumstances the said resignation letter was obtained and it is only after 29.7.2004 he has filed a complaint that the resignation is forcibly obtained. In the light of the fact that the petitioner was suffering from HIV positive and to which aspect there is no much dispute, I am of the view that the Member, Industrial Court ought to have condoned the delay of 21 days. In the aforesaid circumstances, the impugned order passed by the Industrial Court dated 2.5.2005 is quashed and set aside. Delay is condoned. The Industrial Court is directed to decide the complaint preferred by the petitioner on its own merits. Petition

4 disposed of accordingly. No order as to costs.